

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARTELL McCOY,

Plaintiff,

v.

OFFICER MICHAEL YURCAK,
et al.,

Defendants.

Civil Action No. 08-232 Erie

MEMORANDUM ORDER

_____ Plaintiff's civil rights complaint was received by the Clerk of Court on August 13, 2008 and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's Report and Recommendation [17], filed on May 20, 2009, recommends that the Defendants' Motion to Dismiss Complaint [11] be granted and that this case be dismissed. The parties were allowed ten (10) days from the date of service in which to file objections. Service was made on Plaintiff by certified mail at SCI Albion, where he is incarcerated, and on the Defendants. No objections were filed. After de novo review of the complaint and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 16th day of June, 2009;

IT IS HEREBY ORDERED that the Defendants' Motion to Dismiss Complaint [11] be, and hereby is, GRANTED and the within case is DISMISSED.

The Report and Recommendation of Chief Magistrate Judge Baxter [17], dated May 20, 2009, is adopted as the opinion of this Court.

s/ SEAN J. McLAUGHLIN

Sean J. McLaughlin
United States District Judge

cc: all parties of record
Chief U.S. Magistrate Judge Baxter